

Calvert Asset Management Company- Domini Social Investments –  
Catholic Healthcare West-Sisters of St Francis of Philadelphia-  
Mennonite Mutual Aid (MMA)-Aquinas Associates-  
Tri-State Coalition for Responsible Investment-  
Pension Boards- United Church of Christ-  
United Church Foundation-  
JOLT Coalition for Responsible Investing-  
Friends Fiduciary Corporation

## Federal Reserve Board Overdraft Regulation E Proposal

March 26, 2009

Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, N.W.  
Washington, DC 20551

Dear Secretary Johnson:

We, socially responsible investors and asset managers, with over *\$20 billion* in assets under management; join together to thank the Federal Reserve Board for bringing attention to abusive overdraft practices. We urge the Board to choose the far stronger opt-in proposal. Especially in our current economy, it is paramount to adopt aggressive measures to prevent future consumer abuses. For a rule addressing fee-based overdraft to adequately protect consumers, *it must at a minimum require institutions to obtain consumers' affirmative "opt-in."* An opt-out arrangement will do little to alter the status quo.

Currently, institutions generally enroll consumers in their most expensive overdraft programs automatically. Under an opt-out arrangement, institutions could continue to do so, and the burden would rest entirely with consumers to *unsubscribe*. Instead, institutions should be required to obtain consumers' affirmative, "opt-in" consent before covering overdrafts for a fee.

Overdraft fees on debit card purchases and ATM withdrawals cost consumers \$7.8 billion per year. For every \$1.00 borrowed through a debit card overdraft, the consumer pays \$1.94 in overdraft fees. Yet, as the Board notes in its proposal: "[T]he consequence of not having overdraft services for ATM and one-time debit card transactions is to have a transaction denied with no fees assessed." The consequence of coverage—to the tune of \$34 per transaction—clearly exceeds the consequence of having a transaction denied.

Consumer preferences about overdraft coverage for debit card purchases are overwhelmingly clear: approximately 80 percent would rather have the transaction denied than have it covered for a fee, whether the transaction is for \$5 or \$40. Moreover, of the overwhelming majority of consumers who want a choice about whether debit card and ATM overdrafts are covered, *80 percent would prefer opt-in over opt-out*. We urge the Board to listen to what consumers have

clearly said they want and prohibit overdraft fees on debit card and ATM transactions absent consumers’ express consent.

In addition to choosing the far stronger opt-in requirement, the Board should take prompt action to require a cost of credit disclosure for overdraft coverage under the Truth in Lending Act by creating specific disclosures for this product under Regulation Z. It should also immediately address manipulative clearing practices by prohibiting institutions from posting transactions in an order that maximizes overdraft fees, as provided by H.R. 1456, the Consumer Overdraft Protection Fair Practices Act.

We commend the Board’s proposal to prohibit fees for many overdrafts caused solely by debit holds. However, we are disappointed by the proposed limitations that would continue to allow these fees in some circumstances. We urge the Board to prohibit overdraft fees caused solely by debit holds in all cases—because consumers should never be required to pay an overdraft fee when they have not in fact spent more than the funds in their account.

We thank you again for the attention you have devoted to abusive overdraft lending, and we look forward to working with you on this important matter.

Sincerely,

Emma Fofanah  
Social Research Analyst  
Calvert Asset Management Company, Inc.  
Bethesda, MD

Adam M. Kanzer, Esq.  
Managing Director & General Counsel  
Domini Social Investments LLC  
New York, NY

Susan Vickers, RSM  
VP Community Health  
Catholic Healthcare West  
San Francisco, CA

Nora. M. Nash, OSF  
Director, Corporate Social Responsibility  
Sisters of St Francis of Philadelphia  
Aston, PA

Mark A. Regier  
Stewardship Investing Services Manager  
MMA  
Goshen, IN

Frank Rauscher  
Senior Principal  
Aquinas Associates  
Dallas, TX

Patricia A. Daly, OP  
Executive Director  
Tri-State Coalition for Responsible Investment  
Montclair, NJ

Kathryn O’Neill  
Director, Corporate Social Responsibility  
The Pension Boards-United Church of Christ, Inc.  
The United Church Foundation, Inc.  
New York, NY

Marie J. Gaillac, CSJ  
Corporate Responsibility Coordinator  
JOLT, CRI  
San Francisco, CA

Connie Brookes  
Executive Director  
Friends Fiduciary Corporation  
Philadelphia, PA